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From:

Sent: 01/14/09 11:21 AM

To:

Cc:

Subject: Retail Clawback Payment

and I have thought about this issue some more and, based on our understanding of the facts (particularly those stated in our email to you of 09/03/08), we continue to believe that the retail clawback payment is separate from the reorganization. Particularly persuasive to us is the fact that the period of time that determines the amount of payment starts after the separation of the businesses, i.e., the start of competition. This suggests to us that the payment does not relate back to the reorganization itself.